

**REMARKS**

Claims 1-23 were pending in this application.

Claims 1-23 have been rejected.

Claim 9 has been amended as shown above.

Claims 1-23 remain pending in this application.

Reconsideration and full allowance of Claims 1-23 are respectfully requested.

**I. REJECTION UNDER 35 U.S.C. § 102**

The Office Action rejects Claims 1-23 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,856,975 to Rostoker et al. (“*Rostoker*”). This rejection is respectfully traversed.

A prior art reference anticipates the claimed invention under 35 U.S.C. § 102 only if every element of a claimed invention is identically shown in that single reference, arranged as they are in the claims. (*MPEP* § 2131; *In re Bond*, 910 F.2d 831, 832, 15 U.S.P.Q.2d 1566, 1567 (Fed. Cir. 1990)). Anticipation is only shown where each and every limitation of the claimed invention is found in a single prior art reference. (*MPEP* § 2131; *In re Donohue*, 766 F.2d 531, 534, 226 U.S.P.Q. 619, 621 (Fed. Cir. 1985)).

The Office Action asserts that column 4, lines 34-60 and column 5, lines 1-5 of *Rostoker* anticipate a “microcontroller” that executes an “embedded control program” stored in a ROM or a “software control program” stored in a RAM depending on an operating mode, where both programs are used to “control [a] physical layer interface” as recited in Claim 1. (*Office Action*, Page 1, Last paragraph – Page 2, First paragraph).

The cited portions of *Rostoker* fail to anticipate these elements of Claim 1. These portions of *Rostoker* simply recite various components, such as a RISC processor, that form a network protocol processing system. These portions also recite that an operating program for the RISC processor is stored in a volatile instruction RAM.

The cited portions of *Rostoker* contain absolutely no mention of executing different programs stored in different memories based on the “operating mode” in which a “microcontroller” is operating. The cited portions of *Rostoker* also contain no mention of executing one program “in place of” another program based on the operating mode in which the microcontroller is operating. For example, the cited portions of *Rostoker* fail to recite executing a program stored in a ROM while in one operating mode and executing another program stored in a RAM in place of the program stored in ROM while in a second operating mode. In particular, the cited portions of *Rostoker* contain absolutely no mention of a “microcontroller” that (1) executes an “embedded control program” in a “first operating mode” and (2) downloads a “software control program” and executes it “in place of said embedded control program” in a “second operating mode” as recited in Claim 1.

For these reasons, the Office Action has failed to establish that *Rostoker* anticipates the Applicants’ invention as recited in Claim 1 (and its dependent claims). For similar reasons, the Office Action has failed to establish that *Rostoker* anticipates the Applicants’ invention as recited in Claims 9 and 17 (and their dependent claims). Accordingly, the Applicants respectfully request withdrawal of the § 102 rejection and full allowance of Claims 1-23.

**II. CONCLUSION**

The Applicants respectfully assert that all pending claims in this application are in condition for allowance and respectfully request an early allowance of such claims.

SUMMARY


If any outstanding issues remain, or if the Examiner has any further suggestions for expediting allowance of this application, the Applicants respectfully invite the Examiner to contact the undersigned attorney at the telephone number indicated below or at *wmunck@davismunck.com*.

The Commissioner is hereby authorized to charge any additional fees connected with this communication (including any extension of time fees) or credit any overpayment to the Davis Munck Deposit Account No. 50-0208.

Respectfully submitted,

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